

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Mikhail Rhodd)	File No: EB-10-MA-0170
)	NAL/Acct. No: 201132600004
Lauderdale Lakes, Florida)	FRN: 0020835724
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 4, 2011**Released: May 5, 2011**

By the Resident Agent, Miami Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Mikhail Rhodd ("Mr. Rhodd"), apparently willfully and repeatedly violated section 301 of the Communications Act of 1934, as amended ("Act"),¹ by operating an unlicensed radio transmitter on the frequency 89.5 MHz from his residence in Lauderdale Lakes, Florida. We conclude that Mr. Rhodd is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On August 31, 2010, and again on October 6, 2010, agents from the Enforcement Bureau's Miami Office ("Miami Office"), in response to a complaint, used direction-finding techniques to locate the source of radio frequency transmissions on the frequency 89.5 MHz to Mr. Rhodd's residence in Lauderdale Lakes, Florida. The agents determined that the signals exceeded the limits for operation under Part 15 of the Commission's rules ("Rules"),² and therefore required a license. A review of Commission records showed no authorization issued to Mr. Rhodd for any operation of an FM broadcast station at or near this address. While monitoring the station on October 6, 2010, agents from the Miami Office heard a voice broadcast on the frequency 89.5 MHz who identified the station as "89.5 FM Stuntastic Radio." "Blakk Babi" is listed as one of 11 "members" on a website for 89.5 FM Stuntastic Radio.³ Mr. Rhodd identified himself as "Mikhail (Blakk Babi) Rhodd" on his personal webpage.⁴

¹ 47 U.S.C. § 301.

² Part 15 of the Rules sets out the conditions and technical requirements under which certain radio transmission devices may be used without a license. In relevant part, section 15.239 of the Rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 µV/m at three meters. 47 C.F.R. § 15.239.

³ On November 1, 2010, Blakk Babi was listed as a member on the Facebook page for 89.5 FM Stuntastic Radio. www.facebook.com/pages/895-STUNTASTIC-RADIO/119200181427541. Although "member" was not defined, membership appears to involve DJing for the station, as three of the members had DeeJay, DJ or Joc in their names.

⁴ On November 2, 2010, Blakk Babi's Official Music Page on Myspace, www.myspace.com/12streetsnapmusic, stated that "Mikhail (Blakk Babi) Rhodd was born..." The Myspace page also described Mr. Rhodd's rap music career.

3. On October 7, 2010, the Broward County Sheriff's Office ("BSO") executed a search warrant at the same residence, while Mr. Rhodd was present. BSO officers interviewed Mr. Rhodd regarding the unlicensed radio station and provided the Miami Office with a report of the interview. During the interview, Mr. Rhodd admitted that the residence belonged to his mother and that he resided there. He also explained that he arranged for the unlicensed radio station to be set up and to transmit from his mother's residence. Finally, he admitted that the station had been in operation for at least one month, and that he operated the station on at least two occasions.⁵

III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.⁶ The term "willful" as used in section 503(b) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.⁷ The term "repeated" means the commission or omission of such act more than once or for more than one day.⁸

5. Section 301 of the Act states that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act.⁹ On August 31 and again on October 6, 2010, Mr. Rhodd operated an unlicensed radio station on the frequency 89.5 MHz from his residence in Lauderdale Lakes, Florida. A review of the Commission's records revealed that Mr. Rhodd did not have a license to operate a radio station. Because Mr. Rhodd consciously operated the radio station, we find the apparent violation was willful. Because the operation occurred on more than one day, we find the apparent violation was repeated. Based on the evidence before us, we find that on August 31 and on October 6, 2010, Mr. Rhodd apparently willfully and repeatedly violated section 301 of the Act by operating radio transmission equipment without the required Commission authorization.

6. Pursuant to the Commission's *Forfeiture Policy Statement* and section 1.80 of the Rules,

⁵ Mr. Rhodd alleged that the station's owners paid his mother a rental fee to place the equipment in her residence, but he would not identify the owners. Even if his alleged story is correct, we have previously held that liability for unlicensed operation may be assigned to any individual taking part in the operation of the unlicensed station, regardless of who else may be responsible for the operation, because Section 301 of the Act provides that "no person shall use or operate" radio transmission equipment. 7 U.S.C. § 301; *See Joni K. Craig*, Forfeiture Order, 21 FCC Rcd 10793 (EB 2006); *See also Jean L. Senatus*, Forfeiture Order, 20 FCC Rcd 14418 (EB 2005).

⁶ 47 U.S.C. § 503(b).

⁷ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

⁸ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁹ 47 U.S.C. § 301.

the base forfeiture amount for operation without an instrument of authorization is \$10,000.¹⁰ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.¹¹ Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Mr. Rhodd is apparently liable for a forfeiture in the amount of \$10,000.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314, and 1.80 of the Rules, Mikhail Rhodd is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violation of section 301 of the Act.¹²

8. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Mikhail Rhodd **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture must be made by credit card, check, or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹³ For questions about payment, contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. Also, Mr. Rhodd shall send an email notification to SCR-Response@fcc.gov on the date said payment is made.

10. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.80(f)(3) and 1.16 of the Rules. The written statement, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Miami Office, PO Box 520617, Miami, FL 33152, and must include the NAL/Acct. No. referenced in the caption. The written

¹⁰ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (“*Forfeiture Policy Statement*”), recon. denied, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

¹¹ 47 U.S.C. § 503(b)(2)(E).

¹² 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80.

¹³ See 47 C.F.R. § 1.1914.

statement shall also be emailed to SCR-Response@fcc.gov.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to Mikhail Rhodd at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Steven DeSena
Resident Agent
Miami Office
South Central Region
Enforcement Bureau